

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEITH E. COCHRAN, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KEITH COCHRAN,

Respondent-Appellant.

UNPUBLISHED

July 12, 2005

No. 259765

Ogemaw Circuit Court

Family Division

LC No. 03-012325-NA

Before: Fitzgerald, P.J., and Meter and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to his minor child under MCL 712A.19b(3)(c)(i) and (j). We affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). When there is clear and convincing evidence of a statutory ground for termination, the parent's liberty interest no longer includes the right to custody and control of his child. *In re Trejo Minors*, 462 Mich 341, 355; 612 NW2d 407 (2000).

"The clearly erroneous standard shall be used in reviewing the court's findings on appeal from an order terminating parental rights." MCR 3.977(J).

In the present case, the condition leading to adjudication was respondent's incarceration for his fifth offense of driving under the influence of alcohol. Although respondent was not incarcerated again during the proceedings, he continued to miss sobriety tests. He also used illegal substances multiple times; in fact, he tested positive for cocaine only three months before the termination hearing. Respondent attempts to argue that his substance abuse was merely a benign problem, with no negative effect on his ability to care for the child. Although petitioner failed to show that the child was physically harmed by the substance abuse, risk of harm can be inferred from abuse of alcohol and use of cocaine; respondent also risked further incarceration by way of these activities. Therefore, petitioner provided clear and convincing evidence that respondent had not rectified the conditions leading to adjudication. According to the evidence, respondent declined to pursue further treatment or support for his continuing substance abuse. It was, therefore, reasonably likely he would not rectify the condition within a reasonable time.

The lower court did not err when it found clear and convincing evidence of a statutory ground for termination under MCL 712A.19b(3)(c)(i).

We need not decide if termination was warranted under MCL 712A.19b(3)(j), because evidence of only one statutory ground is needed to affirm a termination of parental rights, regardless whether the lower court erred in finding sufficient evidence under other statutory grounds. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998), overruled on other grounds by *In re Trejo*, *supra*.

Finally, respondent argues that the lower court erred when it held that termination was not clearly against the child's best interests because it failed to recognize the significance of the bond between respondent and the child. A court is required to terminate parental rights after finding a proper statutory ground, unless it determines that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 352-353. There is no specific burden on either party to present evidence of the child's best interests; rather, the trial court should weigh all evidence available. *In re Trejo*, *supra* at 353-354.

The existence of a bond is relevant to this analysis, see, e.g., *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); however, it does not necessarily outweigh other considerations, in this case the risks of substance abuse and the child's special needs stemming from fetal alcohol exposure. Respondent had many visits with the child, and petitioner reported some early bonding; however, petitioner later reported that the child seemed withdrawn with respondent. Further, although respondent reportedly made an effort to learn about the child's needs, he did not make a sufficient effort to demonstrate sobriety. The lower court did not err when it held that termination was not clearly against the child's best interests and terminated respondent's parental rights.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter
/s/ Donald S. Owens